

Confidential Information Denoted by
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DIRECT TESTIMONY
(PUBLIC VERSION)

of

DAVID SACKETT

Policy Group
Policy Division
Illinois Commerce Commission

Investigation into Anonymous letter alleging misconduct and improprieties related to The Peoples Gas Light and Coke Company's accelerated main replacement program.

Docket No. 15-0186

October 20, 2016

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1 **I. Witness Qualifications**

2 **Q. Please state your name and business address.**

3 A. My name is David Sackett. I am employed by the Illinois Commerce
4 Commission, 527 East Capitol Avenue, Springfield, Illinois 62701.

5
6 **Q. What is your current job title?**

7 A. I am employed as an Economic Analyst in the Policy Program of the Policy
8 Division of the Illinois Commerce Commission ("Commission" or "ICC").

9
10 **Q. What are your responsibilities within the Policy Division – Policy**
11 **Program?**

12 A. I provide economic analysis and advise the Commission and other Staff
13 members on issues involving the utility industries. I review tariff filings and
14 make recommendations to the Commission concerning those filings. I
15 provide testimony in Commission proceedings. I also serve as an assistant
16 to administrative law judges. I am one of the primary Staff experts on
17 affiliate issues.

18
19 **Q. State your educational background.**

20 A. I graduated from Kankakee Community College with an Associate of
21 Science degree in Arts and Sciences in 1998. I graduated with highest
22 honors from Illinois State University with a Bachelor of Science degree in
23 Economics and History in 2000. I obtained a Master of Science degree in

Applied Economics from Illinois State University in the Electric, Natural Gas and Telecommunications Economics sequence in 2002.¹ I also completed an internship at the Commission in the Energy Division in 2001.

Q. Describe your professional experience.

A. Since July 2007, I have been an Economic Analyst in the Policy Program of the Commission's Energy and Policy Divisions. During that time I have participated in numerous docketed proceedings before the Commission. Of particular note has been my testimony regarding affiliate issues. Most recently, I filed testimony in Nicor Gas Company's Operating Agreement docket (Docket No. 09-0301 consolidated with Docket No. 11-0046, in which Nicor Gas Company sought approval of its reorganization); Docket Nos. 11-0280/11-0281 (Cons.) (North Shore Gas Company and The Peoples Gas Light and Coke Company rate proceedings); Docket Nos. 11-0561/0562/0563/0564/0565/0566 (Cons.) (a rate increase proceeding for certain Utilities Inc. water companies); Docket No. 11-0767 (an Illinois-American Water Company rate increase proceeding); Docket No. 12-0299 (North Shore Gas Company and The Peoples Gas Light and Coke Company proposal to enter into an affiliated interest agreement with its affiliate ITF); Docket Nos. 12-0511/12-0512 (Cons.) (North Shore Gas Company and The Peoples Gas Light and Coke Company rate

¹ "The Electricity, Natural Gas, and Telecommunications Sequence is a structured program that combines training in basic economic theory and statistical methods with specialized training in the theory, history and institutions of the economics of regulation."
<http://economics.illinoisstate.edu/graduate/degree.shtml>.

proceedings); Docket Nos. 12-0273/13-0612 (Cons.) (Commission Investigation into affiliated interactions by North Shore Gas Company and The Peoples Gas Light and Coke Company); Docket No. 14-0419 (Aqua Illinois rate increase proceeding); Docket No. 14-0496 (Wisconsin Energy, Integrys Energy Group, Inc., Peoples Energy, LLC, ATC Management Inc., American Transmission Company LLC, The Peoples Gas Light and Coke Company and North Shore Gas Company Reorganization); Docket No. 15-0558 (The Southern Company, AGL Resources Inc., and Northern Illinois Gas Company d/b/a Nicor Gas Company Application for Approval of a Reorganization Pursuant to Section 7-204 of the Public Utilities Act.); and Docket No. 15-0608 (the Commission's Investigation concerning possible violation of Section 5-202.1 of the Public Utilities Act regarding The Peoples Gas Light and Coke Company, Integrys Energy Group, Inc., and Wisconsin Energy Corporation).

Prior to joining the Commission, I was an instructor at Illinois State University from 2003 to 2006, where I taught various courses in economics and statistics to undergraduate students. I retired from the Marine Corps Reserve in 2014 as a Major after more than 21 years of service in the Infantry, including two combat deployments to Iraq.

II. Purpose of Testimony and Background Information

Q. Please give some background on this case.

A. The Commission opened this docket to investigate claims made in two

anonymous letters regarding The Peoples Gas Light and Coke Company (“Peoples Gas”). These letters alleged improper practices by individuals associated with Wisconsin Energy Corporation (“WEC”), Integrys Energy Group (“Integrys”), and Peoples Gas related to WEC’s acquisition of Integrys and Peoples and in connection with Peoples Gas’ management of Peoples Gas’ Accelerated Main Replacement Program (“AMRP”). The Commission further specified that the investigation would emphasize safety implications and encompass any further allegations of a similar nature as it pertains to the AMRP that may be disclosed in the future. (Corrected Initiating Order, March 11, 2015, 1) After the Corrected Initiating Order was filed, Staff received three additional letters, which it filed on e-docket in Docket No. 14-0496.

Q. What is the subject matter of your direct testimony?

A. The purpose of my testimony is to present my analysis and recommendations on issues raised by several whistle-blower letters sent to the Commission. I respond generally to the testimony filed by Peoples Gas and specifically to that of Bryan Olson (PGL Ex. 1.0) and Sara Hurley (PGL Ex. 2.0).

Q. Do you have any attachments to your direct testimony?

A. Yes. I have several attachments to my direct testimony as listed in the table below. Several of these attached documents were provided by Peoples Gas in response to discovery in this case. The documents were posted by

91 Peoples Gas to a shared drive called Relativity. It is my understanding that
92 all materials on the Relativity site were marked Confidential by Peoples Gas
93 (with the exception of the Public Versions of DR Responses). As a result a
94 significant portion of my testimony and all attachments are marked
95 confidential².

LTR	Document
A	Peoples Gas Supp. Response to Staff DR DAS-9.05 and Atts
B	Pending Corrective Action Summary
C	Peoples Gas Response to Staff DAS-5.07
D	Manager Interview Notes / Transcript
E	Peoples Gas Response to DR AG-2.04 and Attachments
F	Manager Selected Emails / Review
G	Peoples Gas Response to Staff DR DAS-9.07
H	Peoples Gas Response to Staff DAS-5.08
I	Peoples Gas Supp. Response to Staff DR DAS-9.06
J	Peoples Gas Response to Staff DR DAS-9.02
K	Peoples Gas Response to Staff DR DAS-9.04
L	ICC Ex. Parte Letter 5 - June 30, 2015
M	Peoples Gas Response to Staff DR DAS-9.08 and Conf Atts
N	Summary of Anonymous Tip #2 - PGL 204

² Though some attachments were not deemed confidential by Peoples Gas, given the fact that they named individuals and provided job titles, Staff has filed them as confidential attachments here.

O	Peoples Gas Response to Staff DAS-7.06
P	Quality Managers Interviews Notes/ Transcripts
Q	Peoples Gas Response to Staff DR DAS-5.16
R	Inspector Inspection Dates

96

97 **III. Summary of Analysis and Recommendations**

98 **Q. Please summarize your recommendations.**

99 A. I recommend that the Commission find conflicts of interest at Peoples Gas as
100 described below in my testimony and I recommend the Commission direct
101 Peoples Gas to correct the conflicts of interest and safety issues detailed
102 herein, and to take action to ensure such conflicts of interest are avoided in
103 the future.

104

105 **Q. Do you recommend solutions to address the conflicts of interest?**

106 A. Yes. I am offering for the Commission's consideration alternative
107 recommendations that address existing conflicts of interest and which will
108 prevent future ones. While I offer these specific alternatives for
109 consideration, there may be other feasible alternatives for remedying the
110 concerns I raise. To the extent Peoples Gas believes there are alternative
111 solutions that may be more operationally efficient, I recommend Peoples
112 Gas outline these alternatives in its rebuttal testimony; I will consider and
113 may recommend the Commission adopt solutions other than those I propose

114 here, provided they correct existing conflicts of interest and prevent similar
115 conflicts in the future.

117 **IV. Analysis**

118 Q. Please describe the allegations made to the Commission in Letter 3.

119 A. Letter 3³ alleges an inappropriate relationship between a person then
120 employed as Peoples Gas' construction manager ("Manager")⁴ at the
121 Central Shop and one of the contractors working for Peoples Gas on AMRP
122 ("Vendor"). These allegations suggest that employees of Peoples Gas have
123 conflicts of interest that Peoples Gas has not corrected. These conflicts of
124 interest impact or have the potential to impact the costs to Peoples Gas for
125 operating its system, as well as the safety of the Peoples Gas system.

127 Q. Did Peoples Gas and Integrys thoroughly investigate and address
128 these allegations?

129 A. In my opinion, they did not. Peoples Gas' investigation was conducted by
130 Integrys Internal Audit Services ("IAS") and was generally limited to
131 examination of e-mails and other electronically held documents and
132 questioning of employees alleged to have behaved improperly. As

³ Filed on March 30, 2015 in Docket No. 14-0496. Included in the instant case as PGL Ex. 1.5

4 *** BEGIN CONF XX
XX
XX
XX
CONF *** See Attachment J, page 2.
END

explained below, Peoples Gas did not question all employees who would likely have access to relevant information and it failed to follow up when even the limited information it examined suggested improper behavior or that employees were providing incorrect/inaccurate information.

Conflicts of Interest

Q. What did Integrys Internal Audit Services conclude about the allegations of an inappropriate relationship between the Manager and the Vendor?

A. Integrlys investigated Letter 3's allegations and concluded that, *** BEGIN
CONF XXX
XXX END
CONF ***" See Attachment A, page 4. This memo was written by Mr.

Olson.⁵

Q. Do you agree with this conclusion?

A. I do not. Using Integrlys' definition of a conflict of interest, which was in effect during the period in question, it appears that several conflicts of interest existed, involving at least two Peoples Gas employees. *** BEGIN CONF

⁵ While it appears that Manager failed to comply with the code of conduct along with both the confidentiality and the referral policies, *** BEGIN CONF [REDACTED] END CONF *** (See attachment B, page 1)-*** BEGIN CONF [REDACTED] END CONF *** See Attachment C, page 2, *** BEGIN CONF [REDACTED] END CONF *** See Attachment B, page 2.

XX

XXXXXXXXXX END CONF ***

Q. How did Integrys define conflict of interest?

A. Ms. Hurley provided Integrys' Code of Conduct, which states,

A conflict of interest occurs when an individual's private interest interferes, or even appears to interfere, with the interests of the company as a whole. A conflict situation can arise when your actions or interests make it difficult to perform your work objectively and effectively. Conflicts of interest also arise when an employee, officer or director, or **a member of his or her family, receives improper personal benefits as a result of his or her position in the company.**

(PGL Ex. 2.4, 8.) (emphasis added)

Q. Did the Integrys code of conduct prohibit any other related activities?

A. Yes. The code of conduct prohibited the receipt of any money (or its equivalent) or solicitation of a gift or business favor from anyone who does or seeks to do business with the Company. Significantly, Integrys made a distinction between **receiving** a business favor or gift and **soliciting** a Vendor for it. Solicitation of gifts or business courtesies from a Vendor of any amount was in all cases a violation.

Gifts and Other Business Courtesies

No director, officer, employee or a member of his or her family shall accept payments, loans, guarantees of obligations, services, or unusual favors from anyone soliciting business from the company, or who may already have established a business relationship with the company that is intended to influence, or appears to influence, a business decision **or potentially places the recipient under any form of a commitment.**

Giving and receiving gifts and other business courtesies of nominal value can be an important and respectable way of building and maintaining business relationships with agents, suppliers, consultants, contractors and other vendors. **Never ask for a gift or business courtesy. Cash or its equivalent, including gift cards, must never be accepted.**

(PGL Ex. 2.4, 3) (emphasis added)

Q. Do conflicts of interest arise only as a result of actions or can circumstances give rise to potential conflicts?

A. Both. Both Integrys' and WEC's Code of Conduct and conflict of interest definitions discuss both actions (process) and specific circumstances or results which potentially give the appearance of impropriety or which are prejudicial to the ethical operation of the corporation or business.

Q. What evidence did you find of conflicts of interest?

A. *** BEGIN CONF [REDACTED]
[REDACTED]⁶
[REDACTED]j
[REDACTED]⁷ END CONF *** Manager Interview
Notes ("Interview Notes"), attached as Attachment D, page 1. *** BEGIN
CONF [REDACTED]

⁶ *** BEGIN CONF
[REDACTED]
[REDACTED] END CONF *** See Attachment F, page 2. *** BEGIN CONF
[REDACTED] END CONF *** Id., at 10 *** BEGIN CONF
[REDACTED]
[REDACTED] END CONF END CONF ***

⁷ *** BEGIN CONF [REDACTED] END CONF
*** See Attachment D (Interview Notes), page 3

207 XX

208 XXXXXX END CONF *** Id., at 3. *** BEGIN CONF XXXXXXXXXXXXXXXX

209 XX

210 XX

211 XX

212 XX END CONF *** See

213 Attachment F, page 12. In doing so, the Manager arguably solicited the

214 Vendor for a personal favor with a significant monetary value in direct

215 violation of Integrys policy. *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXX

216 XXXXXXXXXXXX. END CONF *** See, Attachment D (Interview Notes), page

217 1. *** BEGIN CONF XX

218 XX

219 XX

220 XX

221 XX

222 XX

223 XX

224 XXXXXX END CONF *** (See Attachment E, page 3), *** BEGIN CONF

225 XX

226 XXXXXX⁸ XX

⁸ In its Fourth Supplemental Response to DR City-PGL 1.07, Peoples Gas provided a confidential spreadsheet entitled *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXX

XXX
XXX
XXX

227 XXX

228 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF*** See Attachment F,

229 page 13. *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

230 XXX⁹

231 END CONF***

232 The Manager also may have used his position with Peoples Gas to attempt

233 to obtain jobs with the Vendor for several former subordinates and other

234 Peoples Gas employees. See, Attachment D (Interview Notes), pages 3-4.

235 This was strictly prohibited by Integrys policy. See Attachment G, pages 1-

236 2.

237 *** BEGIN CONF XXX

238 XXX

239 XXX

240 XXX

241 XXX

242 XXX

243 XXXXXXXXXXXXXXXX END CONF *** See Attachment F, page 25.

244 Despite ***BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

245 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END

246 CONF***, the Integrys investigation concluded that Manager “responded

247 appropriately.” (PGL Ex. 1.0, 20).

XX
XXXXXXXXXXXXXXXXXXXXX END CONF ***

⁹ Manager Requisition Summary (PGL 0140991)

248

249 **Q. Did the Manager take any actions that might tend to indicate he is not**
250 **being impartial in his interactions with the Vendor?**

251 A. Yes. *** BEGIN CONF XX
252 XX *** END CONF
253 (See Attachment F, page 24) *** BEGIN CONF XXXXXXXXXXXXXXXXXXXX
254 XXXXX *** END CONF See Attachment C, page 1. *** BEGIN CONF XXX
255 XX *** END CONF See
256 Attachment F, page 24.

257 *** BEGIN CONF XX
258 XXXXXXXXXXXX *** END CONF (See Attachment D (Interview Notes), page
259 2), *** BEGIN CONF XX
260 XX
261 XXXXXXXXXXXX *** END CONF (See Attachment F, page 11), XXXXXXXX
262 XX¹⁰

263 *** BEGIN CONF XX
264 XX
265 XX

266 XX
267 XX
268 XX
269 XX
270 XX
271 XX
272 XX

¹⁰ Manager Requisition Summary (PGL 0140991)

273 XX
274 XXXXXXXXXXXXXXXX
275
276
277 XX *** END CONF

278 See Attachment F, pages 20-21 (emphasis added).

279

280 **Q. Did the Manager violate other Peoples Gas policies?**

281 Yes. *** BEGIN CONF XX

282 XXXXXXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment D

283 (Interview Notes), page 2),¹¹ *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXX

284 XX

285 XX END CONF ***

286 See Attachment C, page 2. There is no evidence that the Manager ever

287 reported that his Subordinate (***) BEGIN CONF XXXXXXXXXXXXXXXX

288 XX

289 XXXXXXXXXXXXXXXXXXXXXXXX. – END CONF *** (See Attachment H,

290 page 2.), had a conflict of interest.

291

292 **Q. Does this Manager have any other relatives that work for vendors**
293 **which do business with Peoples Gas?**

294 Yes. This Manager also has a son-in-law who works for a second vendor

295 and nephew-in-law who works at a third vendor, which only became known

¹¹ ***BEGIN CONF XX
XXX
XXXXXXXXXXXXXXXXXXXXX. END CONF***

296 after Integrlys had completed its investigation. (PGL Ex. 1.0, 18-19.) ***

297 BEGIN CONF

298 XX

299 XX

300 XX

301 XXXXXX” – END CONF *** See Attachment D (Interview Notes), page 3)

302 However, his statement was incorrect. While the Manager’s answer may

303 have been factually accurate when his daughter was engaged, given the

304 definition of family member in the Code of Conduct, the Manager did not

305 change his answer or inform Peoples Gas of the conflict after his daughter

306 and son-in-law were married and the son-in-law was considered a “family

307 member.” Also, Manager did not disclose either of these other relatives in

308 his annual code of conduct questionnaires, nor did he advise investigators

309 despite assurances by WEC to the contrary. See Attachment M, page 16.

310

311 **Q. Did the Manager take any other actions that violated other Peoples Gas**
312 **policies?**

313 A. Yes. *** BEGIN CONF

314 XX

315 XX

316 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. END CONF *** (See Attachment

317 D (Interview Notes), pages 11-12) *** BEGIN CONF

318 XXXXXXXXXXXXXXXXXXXXXXXX

319 XX

320 XXXXXXXX.¹²

321 XX

322 XX.

323 END CONF *** Id. at12) *** BEGIN CONF

324 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

325 XX

326 XX

327 END CONF ***

328

329 **Q. What other concerns do you have regarding this conflict of interest?**

330 A. As stated above, both Integrys' and WEC's Codes of Conduct and conflict of
331 interest definitions discuss both actions and circumstances or results which
332 are prejudicial to the ethical operation of the corporation (or business).
333 Unfortunately, when evaluating the Manager's situation, both Integrys and
334 WEC focused on the circumstances and determined that it was not an
335 existing conflict of interest for a variety of reasons or mitigating
336 circumstances. Mr. Olson separated the allegation into issues, explained
337 how each individually was not problematic and then concluded that the
338 relationship was not inappropriate. In fact, while the Supervisor, Manager
339 and his Subordinate approved hundreds of thousands of dollars for the

¹² *** BEGIN CONF XX END CONF *** See Attachment D (Interview Notes), , page 12)

Vendor during this period, Mr. Olson refers only to the “approval authority over only smaller projects,” downplaying this authority, and never mentions any actual approvals. (PGL Ex. 1.0, 19.) Mr. Olsen and WEC failed to address the clear pattern of inappropriate behavior over more than a four-year period – behavior that resulted in the Vendor providing employment to Peoples Gas employees’ relatives and the same Peoples Gas employees approving payments to the Vendor as well as providing the Vendor information on pending contracts.

Q. What evidence of this improper focus did you find?

A. The most questionable action the Manager took was when he appears to have solicited the Vendor to employ his daughter in 2011 and again in 2014. In his direct testimony, Mr. Olson stated that the daughter “was employed” by the Vendor. (PGL Ex. 1.0, p. 19) *** BEGIN CONF

XX

XXXX END CONF *** See Attachment A, pages 2-3. *** BEGIN CONF

XXXXXXXXXXXX

XXf

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF ***

Q. What if any weaknesses does this reveal about Integrys’ investigation into the conflict of interest issue?

A. Integrys' investigation of possible Code of Conduct violations was too narrow. Significantly, Integrys determined that the Manager had a "personal relationship" with the CEO of the Vendor which was described by a subordinate of that CEO as longstanding but this relationship was not prohibited by the Code of Conduct. Because of the limitations in the code of conduct, at no time did Integrys ask the about the personal nature of that relationship, its duration or its origins. Nor did Integrys mention that relationship in any conclusions, summaries or its direct testimony here.

Integrys determined that a Peoples Gas employee's relative working for a vendor is not necessarily a conflict of interest. This investigation failed to take into account the fact that the evidence suggests the Manager asked that Vendor to hire his daughter and that the Manager has significant authority to take actions that directly benefit the Vendor. The Integrys Code of Conduct properly considers the possibility that, by accepting business courtesies, Peoples Gas employees might be placed in a position in which they might be inclined to exercise improper influence, and the Code accordingly prohibited the solicitation of any business favor. (PGL Ex. 2.4, p. 3.) Providing a job for a family member (in response to a possible solicitation to do so) is significant. The Commission should not accept the Supervisor's and Integrys' failure to sanction such actions and their apparent conclusion that such actions are acceptable.

384 **Q. What other concerns do you have regarding this ongoing conflict of**
385 **interest?**

386 A. *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
387 XX
388 XX END CONF *** See
389 Attachment J, page 2. This corroborates part of the fifth letter (“Letter 5”),¹³
390 which was not addressed by Peoples Gas in its direct testimony, which
391 asserts that this Manager was promoted to a position of greater
392 responsibility by “the new management of WEC.” See Attachment H, pages
393 2-3. As noted below, this Manager had significant influence over which
394 safety inspectors oversaw the work done in his sector. He reassigned
395 inspector jobs from another vendor to this Vendor. *** BEGIN CONF
396 XX
397 XX
398 XX END
399 CONF *** See Attachment K, page 2.

400

401 **Q. Is there a concern that these conflicts of interest could result in**
402 **negative consequences?**

403 A. Yes. The evidence suggests that possible consequences of these conflicts
404 of interest include the following:

¹³ Filed on August 13, 2015 in Docket No. 14-0496. Attached to this testimony without redaction as Attachment L.

405 • Safety implications, as the vendor may conclude that it does not have to
406 perform work as carefully or completely as it would if it did not employ
407 several Peoples Gas employees' family members and friends.

408 • Increasing costs, as the vendor may offer higher, or otherwise less
409 favorable, bids because it believes it has preferred status.

410 • Decreased competition, as other vendors, if aware of these relationships,
411 may be deterred from bidding on PGL projects based on a belief that
412 they do not have a fair chance to be awarded contracts.

413 None of these situations are in the best interests of Peoples Gas, its
414 shareholders or its ratepayers.

416 Q. Did other employees of Peoples Gas know of these conflicts of
417 interest?

418 A. Yes. *** BEGIN CONF [REDACTED]
419 [REDACTED]
420 [REDACTED]
421 [REDACTED]
422 END CONF *** See Attachment A, page 5.

424 Q. After investigating the allegations in the anonymous letters at issue in
425 this proceeding, did Peoples Gas correct the conflicts of interest with
426 respect to these employees?

427 A. No. Neither Integrys nor WEC has acted to eliminate these conflicts of
428 interest. *** BEGIN CONF
429 XX
430 XX
431 XX
432 XXXXXXXXXXXXXXXX END CONF *** Id., at 6. However, this does not
433 eliminate the conflicts of interest. Peoples Gas employees continue to have
434 unilateral authority to approve payments to a Vendor that employs their
435 relatives based on the possible request of those same employees. The
436 appearance of conflicts of interest that arises when Peoples Gas
437 employees' relatives are employed by vendors doing work for Peoples Gas,
438 and when Peoples Gas employees with relatives working for the vendors
439 have payment and other approval authority, is not remedied simply by
440 changing the specific work the employees' relatives do for the vendors.
441 Integrys' and Peoples Gas' apparent acceptance of situations that give the
442 appearance of a conflict of interest should not be allowed to continue.
443 Finally, despite repeated failures to comply with corporate policies, the
444 promotion of this Manager to *** BEGIN CONF
445 XXXXXXXXXXXXXXXXXXXXXXXX END CONF *** after the conclusion of this
446 investigation may indicate to other employees that Peoples Gas acquiesces
447 to violations of corporate policy by some employees. The promotion, which
448 occurred after WEC took control of Peoples Gas, suggests that WEC,

likewise, does not disapprove of this conduct or, at the very least, that the Company might show greater concern for the appearance of impropriety.

Q. Did WEC conduct its own investigation to determine whether the current arrangement was a conflict of interest?

A. Yes. When the Manager and Subordinate reported the potential conflicts of interest with regard to relatives at vendors to WEC, WEC ethics division investigated. *** BEGIN CONF

XX

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF *** See

Attachment M, pages 15, 17.

Q. How did WEC justify its determination that Manager's current position and interaction with the Vendor that employs his friends and daughter is not an actual conflict of interest?

A. WEC asserts that, *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XX

XX

XX

XX

XX

XX

XX

472 XX
473 XX
474 XX
475 XX
476 XXXXXXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment M, pages 14-15.

477
478 **Q. How do you respond to WEC's investigation and rationale regarding**
479 **the Manager?**
480 A. WEC's investigation fails in part because it relies in part on Integrys' less-
481 than-comprehensive investigation. *** BEGIN CONF XXXXXXXXXXXXXXXX
482 XX
483 XX
484 XX END
485 CONF *** (See, Attachment D (Interview Notes), page 3) and that
486 investigation did not investigate any relationship with any other vendors.
487 Thus, like Integrys, WEC has failed to thoroughly address this issue. WEC
488 implies that the Manager had no influence that could favor the Vendor.
489 However, the Manager was promoted to oversee construction activities in a
490 larger area and could still directly or indirectly influence the Vendor's
491 relationship with People's Gas as the Manager's direct reports had both
492 supervision of Vendors and approval authority.

493

494 **Q. How did WEC justify its determination that Subordinate's current**
495 **position and interaction with the Vendor which employs her relative is**
496 **not an actual conflict of interest?**

497 A. WEC stated to the Subordinate that *** BEGIN CONF XXXXXXXXXXXXX
498 XX
499 XX
500 XX
501 XX
502 XX
503 XX
504 XX END CONF *** See
505 Attachment M, pages 17-18.
506

507 **Q. What is your assessment of the WEC investigation and rationale**
508 **regarding the Subordinate?**

509 A. *** BEGIN CONF
510 XX
511 XX
512 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF*** See Attachment K, page
513 2. ***BEGIN CONF XX
514 XX
515 XX
516 XX

517 XX
518 XX
519 XX
520 XXXXXXXXXXXXXXXXXXXX END CONF ***

521
522 **Q. Do you have any solutions that would correct the existing conflicts of**
523 **interest?**

524 A. Yes. In order to remove the conflicts of interest I identify above, I offer the
525 following alternative recommendations:

526 **Alternative Recommendation 1: Employee Limitations**

527 The Commission should prohibit any Peoples Gas, North Shore Gas or
528 WEC Business Services LLC ("WBS") employees with family members¹⁴
529 that work for a vendor that does business with Peoples Gas, North Shore
530 Gas or WBS from (1) approving payments to the vendor; or (2) approving
531 work orders for the vendor, or (3) approving any action by Peoples Gas,
532 North Shore Gas or WBS which provides a direct benefit to the vendor.

533 Or

534 **Alternative Recommendation 2: Vendor Limitations**

¹⁴ "Family member" Staff recommends adopting the definition of "Family member" found in the State Officials and Employees Ethics Act: a person related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée. . See 5 ILCS 430/10-15(6) (State employee gift ban).

535 The Commission should require Peoples Gas, North Shore Gas and
536 WBS to require employees to identify Family Members who are
537 employed by vendors who transact business with Peoples Gas, North
538 Shore Gas or WBS, and to recuse themselves from participating in any
539 transactions involving the employing vendor. Peoples Gas, North Shore
540 Gas and WBS should be required to report annually to the Commission's
541 Director of the Policy Division regarding the number of employees who
542 have Family Members who work for its vendors and sub-contractors. As
543 a condition of employment with Peoples Gas, North Shore and WBS,
544 employees shall be prohibited from negotiating for or accepting offers of
545 employment with vendors or sub-contractors that do business with
546 Peoples Gas, North Shore Gas or WBS and with whom the employee
547 engages as part of his or her employment.

548 Along with either recommendation above, the Commission should also
549 require Peoples Gas to inform the Commission's Director of the Policy
550 Division of every EthicsLine,¹⁵ code of conduct or conflict of interest
551 allegation related to its operations or costs within thirty days of the allegation.
552 The utility should also, for each allegation, and within thirty days of
553 resolution, provide the Commission's Director of the Policy Division with a
554 written report summarizing any actions taken to investigate and respond to
555 the allegation and a description of how the utility resolved the matter.

¹⁵ EthicsLine is a third-party administered telephone line and web-based site, through which any employee can report a concern or ask a questions, anonymously if the employee desires. (PGL Ex. 1.0, 10.)

Finally, the Commission should order Peoples Gas to submit to the Commission Staff within 60 days of the final order in this case a Code of Conduct that the utility will adopt which reflects the Commission's findings in this proceeding, as well as an associated implementation plan. The implementation plan shall include but not be limited to a timetable for implementation of the Code of Conduct and a description of how employees will be informed about and memorialize agreement with the Code of Conduct.

Safety Inspectors

Q. What did the Commission state in its Initiating Order about safety-related situations?

A. As quoted above, in its Initiating Order the Commission expressed a specific concern about the potential for mismanagement to lead to unsafe situations. The Commission and the Staff Report indicate that safety is a primary concern for this investigation.

Q. What did Mr. Olson conclude about safety-related deficiencies?

A. Mr. Olson stated that the review of the Letter 3 allegations did not reveal evidence to support any safety-related deficiencies. (PGL Ex. 1.0, 20.) Furthermore, Mr. Olson addresses a second internal investigation entitled Anonymous Tip #2 which alleges that, "an employee was pressuring a contract inspector for being too strict and writing up too many deficiencies,"

and, after alleging that the claims were “unsubstantiated,” reaches the same conclusion that there is no evidence to support any safety-related deficiencies. *Id.* at 25.

Q. Do you agree with these conclusions?

A. I do not. Peoples Gas and its auditors appear not to have followed up regarding several safety-related allegations. The Company seemingly failed to follow up on evidence uncovered in its investigations suggesting safety may have been compromised. (PGL Ex. 1.0, 20, 25.) Notably, the employee who was alleged to be “pressuring a contract inspector” was the Manager named in both Letter 3 and Letter 5. Peoples Gas repeatedly treated each of these investigations separately when they may well be related.

Q. What involvement do the inspectors in question have related to safety during the construction process?

A. According to the Manager, the *** BEGIN CONF

END CONF *** See, Attachment D (Interview Notes), page 7 The Code
192 refers to federal safety regulations and standards codified at 49 C.F.R.

Part 192, adopted by the Commission in Part 590 of the Commission's rules.

83 Ill. Adm. Code Part 590. Thus, a significant part of the duties of these inspectors was to ensure safety during construction.

Q. Does Peoples Gas acknowledge the process of manager involvement in the inspection function should be reassessed?

A. Yes. In His Confidential Summary Memo to the Ethics Committee, Mr. Olson also concluded that *** BEGIN CONF

XX

[illegible]

See Attachment A, page 8.

However, as noted above, in investigating the whistle blower letters Peoples Gas reports no safety concerns. Bryan Olson refers to making “process improvements to ensure that the independence of inspectors was preserved.” (PGL Ex. 1.0, 25) Mr. Olson does not acknowledge that the current process for hiring contractors, leads to the appearance of impropriety and could create potential or actual conflicts of interest as his report to the

633 ethics committee indicates. The process changes referred to by Mr. Olsen
634 presumably leave in place the inspectors hired under the flawed process.

635

636 **Q. How do the process for hiring inspectors and the reporting structure for**
637 **inspectors create potential safety issues?**

638 A. Mr. Olson interviewed two other people (Integrus' Manager, Technical
639 Training and Quality Assurance¹⁶ and the AMRP Quality Manager, a
640 contractor) who each indicated that the structural arrangement and
641 relationship between inspectors and contract and/or shop managers led to
642 problems. The transcript from Mr. Olson's interview with the AMRP Quality
643 Manager *** BEGIN CONF

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645 XX¹⁷

646 XX

647 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX¹⁸

648 XX END

649 CONF *** See Attachment P, page 3. Safety inspectors should be incented

¹⁶ PGL 0279681 – Employee's Integrus email signature.

¹⁷ *** BEGIN CONF

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XXX END CONF *** See Attachment P, page 1.

¹⁸ i. BEGIN CONF

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XXXXXXXXXXXXX END CONF ***

ii. *** BEGIN CONF

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XXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment P, page 3 (emphasis added)

to engage in truthful, accurate and reliable reporting. Permitting managers
to *** BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF ***
inspecting the work the manager is responsible for is an unsound practice
which does not create proper incentives.

**Q. What evidence did you find that the Manager improperly influenced
inspectors and their inspections?**

A. The Confidential Interview Transcript from Mr. Olson's interview with
Integrus' Manager, Technical Training and Quality Assurance ("Quality
Assurance Manager") (PGL 0279681) states: *** BEGIN CONF XXXXXXXX
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XXXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment P, page 5, emphasis
added) *** BEGIN CONF
XXX END
CONF *** Id. at 2 who then served as the Field Technical Specialist in the
Project Management Office and as a trainer. See Attachment Q, Page
2. Therefore, it is reasonable to conclude that the inspector referenced was
an experienced inspector, as he was given the responsibility to train other
inspectors. Furthermore, according to the AMRP Field Quality Manager, his

supervisor, this Inspector *** BEGIN CONF

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XXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment P,

page 1. In fact, on one particular issue, *** BEGIN CONF

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XXXXXXXXXXXXXXXXXXXXX END CONF *** Id. at 2.

Q. What additional evidence did you find that the Manager improperly influenced inspectors?

A. As stated above, Mr. Olson dismisses allegations of intimidation of this Inspector by this Peoples Gas Manager as “unsubstantiated.” This conclusion ignores certain available information. First, it ignores the information from Integrys’ Manager that the Peoples Gas Manager may have been the cause of the inspector leaving. Second, the information Mr. Olson relies on appears to be inaccurate. In particular, the Manager, who was alleged to have exerted pressure on the Inspector, stated that the Inspector was not at his shop “very long” and that he did not remember any issues with Inspector’s work. Integrys did not pursue the discrepancy between the statements of the Quality Assurance Manager and those made by the Manager who was alleged to have exerted pressure. Integrys did not seek to verify the statements of the Peoples Gas Manager alleged to have exerted influence regarding the short assignment of Inspector to Central Shop or to determine if the job which the AMRP Quality Manager indicated

696 required continued reporting to get addressed was a Central Shop project.

697 *** BEGIN CONF

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699 XX END

700 CONF *** See Attachment N, page 2. Nor was there any attempt to reach
701 out to the Inspector himself. See Attachment O, page 2.

702

703 **Q. Is there evidence related to this Inspector that indicates the Manager's**
704 **recollection was not accurate?**

705 A. Yes. *** BEGIN CONF

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710 XX END CONF *** See

711 Attachment R, pages 1, 3 and 11. *** BEGIN CONF XXXXXXXXXXXXXXXX

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716 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX END CONF ***

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718 **Q. What evidence did you find that indicated the Manager selected his**
719 **inspectors?**

720 A. *** BEGIN CONF

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722 XXXXXXXXXXXX END CONF *** See, Attachment D (Interview Notes), page

723 8. *** BEGIN CONF XXXXXXXXXXXXXXXXXXXX

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727 END CONF *** See Attachment A, page 8. *** BEGIN CONF

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729 XX END CONF *** See

730 Attachment L, page 2. Peoples Gas has failed to address this claim in its

731 testimony.

732

733 **Q. Has there been any change in the composition of inspection crews?**

734 A. While Peoples Gas acknowledges that the design should change, no
735 mention is made of altering the composition of the crew of inspectors at
736 Central Shop. If they are influenced by the Manager who, continues to have
737 opportunities to influence Vendor, the potential for improper influence
738 remains entrenched in the Central Shop District. Furthermore, in light of his
739 relationship with the Vendor, the Manager can, if he chooses, avoid the
740 effect of any new policy that removes the shop manager role in assigning

inspectors by going directly to the CEO of the Vendor and recommending actions in line with the Manager's wishes.

Q. What did Mr. Olson conclude about the allegations found in Anonymous Letter 2?

A. Mr. Olson addresses the internal investigation entitled Anonymous Tip #2 which alleged that, “an employee was pressuring a contract inspector for being too strict and writing up too many deficiencies,” and, concludes that the claims were “unsubstantiated.” (PGL Ex. 1.0, 25) *** BEGIN CONF XX
XXXXXXXXXX END CONF *** See Attachment N, page 1. Finally, Peoples Gas asserts that the allegations were unsubstantiated because the inspector that was reported to be too strict was not fired; rather, he resigned. See Attachment O, page 2.

Q. What was the actual allegation in the initial EthicsLine report?

A. *** BEGIN CONF

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XXXXXXXXXXXXXXXXXXXX END CONF *** See Attachment N, page 1.

Q. Do you agree with Mr. Olson's conclusion that the allegation was unsubstantiated?

764 A. No. *** BEGIN CONF

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773 XX END CONF *** See

774 Attachment P, pages 1-3. *** BEGIN CONF

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776 XXXXXXXXXXXXX Id. XXXXXXX

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779 XX END CONF

780 ***Id. at 2.

781

782 **Q. What do you conclude about the safety-related issues pertaining to**
783 **these allegations and the subsequent investigation?**

784 A. I conclude that Peoples Gas did not place sufficient emphasis on possible
785 safety implications. As a result Peoples Gas left the inspector crew in place.
786 Furthermore, as Peoples Gas subsequently promoted this Manager, there

was a potential that the apparent practice of influencing safety inspections may spread.

Q. Did WEC implement Mr. Olson's recommendations?

A. No. According to recent information provided by Peoples Gas, Peoples Gas' new management (WEC) did not pursue the recommendations of the report, or implement a policy to address inspector independence. See Attachment A, page 2. This should be a source of concern, because the system that Peoples Gas new management adopted does not correct or even address several of the issues raised.

Q. Please describe briefly the previous system of inspections.

A. Inspections at Peoples Gas are found in two roles, Quality Control ("QC") and Quality Assurance. In the previous system that was in place under Integrys management, contract inspectors performed the QC role at each shop. These were the positions that the Manager shifted from another contractor to the Vendor. They were also the positions held by employees he was alleged to have had fired or re-assigned. The QA role was a part of Compliance Monitoring Group ("CMG") and included the AMRP Quality Manager and the Field Technical Specialist. The CMG was a part of the same reporting line as main construction work. Id.

Q. What has changed since the acquisition?

810 A. QC is being converted from contracted inspectors to Field Coordinators,
811 some of whom are still contractors, while others are employees. CMG
812 (including QA) has been shifted to a different reporting chain than
813 construction; thus, CMG is allegedly “independent of the Construction
814 group.” Id.

815

816 **Q. What concerns do you have about this new system or arrangement?**

817 A. *** BEGIN CONF XX
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819 XX END CONF*** Id.

820 ***BEGIN CONF

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822 XX END CONF *** See Attachment M, page 16. *** BEGIN CONF

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827 XX END CONF ***

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829 **Q. Do you offer any recommendations that would, if implemented, correct**
830 **the existing safety issues?**

831 A. Yes. If has not already done so, Peoples Gas should redefine the duties of
832 senior construction managers, and those of shop managers to make certain

that such managers have no role in the selection and retention, evaluation or dismissal of inspectors at shops. Furthermore, I offer two recommendations that would correct the current composition of contract inspectors at the shop.

Q. What Recommendations Do You Make Regarding Safety Issues?

A. Peoples Gas shop-level¹⁹ or higher-level construction managers should not be permitted to have any role in the selection and retention of inspectors at shops. Furthermore, there are two solutions that would address conflict of interest issues that arise from the current composition of contract inspectors at the shop. Peoples Gas could either:

Alternative Recommendation 1: Randomly re-assign all contract inspectors.

Or

Alternative Recommendation 2: Move all Central shop contracted inspectors to other shops or roles.

Q. Do you have any additional recommendations?

Yes, in addition to the recommendations noted above, Peoples Gas should be required to do the following.

¹⁹ Peoples Gas has three districts (North, Central and South) which are referred to internally as “shops.”

- 852 ○ Peoples Gas must present its initiatives to address safety-related
853 issues that arose from this investigation and explain how those
854 initiatives will address those safety-related issues.
- 855 ○ Peoples Gas must submit to Commission Staff a list of all Quality
856 Assurance / Quality Control (“QAQC”) audit deficiencies going
857 forward related to work performed by Peoples Gas crews related to
858 capital construction, to be updated on a monthly basis.
- 859 ○ Peoples Gas must submit to Commission Staff a list of all QAQC
860 audit deficiencies going forward related to work performed by
861 contractor crews related to capital construction, to be updated on a
862 monthly basis.
- 863 ○ Peoples Gas must submit to Commission Staff a list of all
864 inspection deficiencies related to capital construction going forward,
865 to be updated on a monthly basis.
- 866 ○ Peoples Gas must submit to Commission Staff a list of all Non-
867 Conformance Reports (“NCRs”) going forward related to work
868 performed by Peoples Gas crews, to be updated on a monthly basis.
- 869 ○ Peoples Gas must submit to Commission Staff a list of all NCRs
870 going forward for work performed by contractor crews related to
871 capital construction. This shall be updated on a monthly basis.

872

873 **Q. Does this conclude your prepared direct testimony?**

874 **A. Yes.**